

REMARKS

Claims 22-31 and 33-51 were examined by the Office, and in the Office Action of February 8, 2008 all claims are rejected. With this response claims 22 and 39-51 are amended. All amendments are fully supported by the specification as originally filed. Support for the amendments can be found at least from page 13, line 17, where it is stated that the database (12) stores user data. Furthermore, on page 5, lines 7-12, it is stated that the data collector is programmed to collect data on the source communication device. Executing the data collector in the source communication device is disclosed on page 17, lines 30-34. Applicant respectfully requests reconsideration and withdrawal of the objections and rejections in view of the following discussion.

Claim Rejections Under § 103

In section 2, on page 2 of the Office Action, claims 22-31 and 33-51 are rejected under 35 U.S.C. § 103(a) as unpatentable over Frouin (U.S. Patent No. 6,891,797) in view of Parry et al. (U.S. Appl. Publ. No. 2003/0179112). Applicant respectfully submits that claim 22 is not disclosed or suggested by the cited references, because the cited references fail to disclose or suggest all of the limitations recited in claim 22. The cited references at least fail to disclose or suggest transferring a data collector from the destination communication device to the source communication device, wherein the data collector is programmed to collect user data on the source communication device. Claim 22 is amended to clarify that the data collector is programmed to collect user data on the source communication device.

In contrast to claim 22, Frouin discloses an asynchronous packet switching network with low implementation cost with regard to a switch. The transfer of a packet through a switch takes place as soon as the switch has knowledge of the switching information of the packet data without awaiting complete reception of all the packet data. See Frouin column 3, lines 20-31. Frouin discloses transferring the management of resources associated with a service guarantee required by a traffic type to a source communication device. See Frouin column 7, line 59—column 8, line 21. The transfer of resources is to provide a communication for each item of information to be transmitted in connect mode, an operation of reserving a path on the network, and then an operation of transmitting the information in connected mode on the reserved path. For each item of information to be transmitted in non-connected mode, an operation of

estimating the availability of the path on the network is performed, and if the path is deemed to be available for transmission of the information, the information is transmitted on the path.

Therefore, contrary to the assertions of the Office, Frouin does not disclose or suggest transferring a data collector from a destination communication device to a source communication device, as recited in claim 22, because Frouin only discloses the transfer of resources.

Furthermore, Frouin discloses that a source communication device can request a connection by transmitting to each communication devices on the path a request to establish a connection. See Frouin column 13, line 58—column 14, line 19. When it is possible to establish the connection, a connection acceptance is transmitted to the source communication device. The source communication device may then broadcast an item of information representing establish of the connection. See Frouin Figure 3. Therefore, Frouin only discloses sending a connection request, and receiving a connection acceptance, but does not disclose or suggest transferring a data collector programmed to collect user data on the source communication device, as recited in claim 22. In addition, Frouin also discloses sending an item of information representing the impossibility of setting up a connection to the destination communication device. See Frouin column 14, lines 62-67. However, this item of information is not a data collector as in claim 22.

It appears that the Office has interpreted the term “data collector” in claim 22 to refer to a message being sent from the destination node to the source node. However, as claim 22 makes clear the data collector is programmed to collect user data on the source communication device, and therefore is not merely a message. Frouin only discloses sending messages from the destination node to the source node, and the Office has erred in interpreting messages as corresponding to the data collector in claim 22.

For example, claim 22 is amended to specifically recite that the data collector is programmed to collect user data on the source communication device. In contrast to claim 22, Frouin only discloses that data can be transferred between source communication devices and destination devices after setting up a communication path. See Frouin column 13, lines 24-56. However, collecting data using the data collector is not the equivalent of transferring data. Instead, Frouin only discloses that messages are exchanged, and these messages cannot be used for collecting data. A message cannot be a piece of a program being programmed to collect user data. Even the messages that are used to set up the communication path cannot be interpreted to

correspond to the data collector, since they are merely messages. In addition, the data packets discussed in Frouin do not have the features of the data collector recited in claim 22.

Furthermore, Frouin fails to disclose or suggest whether user data is sent from the source communication device to the destination communication device. Instead, Frouin only discloses transferring messages for setting up a communication path, and then transferring data packets over the communication path. However, Frouin is silent as to whether these data packets are user data as recited in claim 22.

Parry fails to make up for the deficiencies in the teachings of Frouin, and therefore the cited references, alone or in combination, fail to disclose or suggest all of the limitations of claim 22.

Claims 23-38 ultimately depend from claim 22, and therefore are not disclosed or suggested by the cited references at least in view of their dependencies.

In addition, as for claim 23, the Office asserts that the features of claim 23 would be known from col. 10, l. 37-55 of Frouin. From col. 10, l. 37-55, however, there is only known to use signalling means which allow exchanges during the establishment phase. This is done by means of specific format messages. Specific format messages, however, do not require a migration tool migrating transferred data into the destination communication device. The messages do have a specific format according to Frouin and therefore, a migration tool is void.

As for claim 24, the Office asserts that a connected mode and a non-connected mode would be a wired or a wireless connection. However, the Office fails to understand that the OSI reference model provides for connected and non-connected communication. In connected communication, a path is dedicated for this communication, and in non-connected communication, there is no dedicated path between the communication partners. However, connected and non-connected modes do not read onto wired or wireless connections. These types of connections use connected or non-connected modes, but they are not these modes as such.

As for claim 26, Frouin does not teach that the data collector translates the collected data into the standard data format. As has been mentioned above, the data collector in the understanding of the Office is a message. A message is not capable of translating anything. Moreover, from the citation in col. 10, l. 37-55, Frouin only teaches to use specific format messages. However, translating collected data into the standard data format is something

different than using specific format messages. Therefore, Frouin fails to teach the features of claim 26.

As for claim 27 the Office cites col. 20, l. 44-57, and col. 27, l. 58- col. 28, l. 55. However, in these lines, there is nowhere disclosed that the source communication devices are identified. In col. 20 it is only disclosed that certain messages are exchanged between the source communication device and the destination communication device. In col. 27-col. 28, the type of messages are illustrated, however, none of the illustrated messages identifies the source communication device.

As for claim 29, it is noted that after identifying the source communication device, compatibility between the source communication device and at least one provided data collector is checked. Checking compatibility is not disclosed in Frouin. The citation of the Office fails to teach that the data collector needs to be compatible and that this compatibility is checked. The messages are used, according to col. 10, l. 41, in a specific format messages. For these messages, there is no check for compatibility necessary.

As for claim 30, col. 13, l. 28-38, and col. 15, l. 22-27 fail to teach loading a compatible data collector onto the destination communication device. In contrast, Frouin teaches to determine the availability of each link or of each path in the network, using a load table representing loads on links. This, however, is not loading a compatible data collector onto the destination communication device according to the invention.

As for claim 37, col. 15, l. 54- col. 16, l. 28 fail to teach that the data collector collects available data types within the source communication device and that from the available data types a user can select the ones, he wants to collect from the source communication device. The citation on col. 15-16 does only teach that a transmission path can be setup using the items of information requesting the connection and confirming the establishment of connection.

Independent claims 39-51 contain limitations similar to those recited in claim 22, and therefore for at least the reasons discussed above in relation to claim 22 are not disclosed or suggested by the cited references.

Conclusion

For at least the foregoing reasons, it is respectfully submitted that the present application as is in condition for allowance, and such action is earnestly solicited. The undersign hereby authorizes the Commissioner to charge Deposit Account No. 23-0442 for any fee deficiency required to submit this response.

Respectfully submitted,

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